

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

PATRICIA McCOLM,

Case No. C-02-05810 PJH (JCS)

Plaintiff(s),

v.

**ORDER DENYING PLAINTIFF'S
MOTIONS TO COMPEL
[Docket Nos. 115, 116, and 117]**

SAN FRANCISCO HOUSING
AUTHORITY ET AL.,

Defendant(s).

Plaintiff, Patricia McColm, has filed the following motions, which came on for hearing before the undersigned pursuant to notice and court order on March 16, 2007:

1. Plaintiff's Motion to Compel Production of Documents from the San Francisco Housing Authority (pursuant to Plaintiff's First Request for Production of Documents) ("Plaintiff's First Motion to Compel") [Docket No. 115];
2. Plaintiff's Motion to Compel Production of Documents from the San Francisco Housing Authority (pursuant to Plaintiff's Second Request for Production of Documents) ("Plaintiff's Second Motion to Compel") [Docket No. 117]; and
3. Plaintiff's Motion to Compel Production of Documents from Defendants Paula Jones dba A-1 Security (pursuant to Plaintiff's Request for Production, Set One) ("Plaintiff's Third Motion to Compel") [Docket No. 116].

Having heard the arguments of the parties and good cause appearing, the Court rules as set forth below.

1 The Court notes that with respect to each of Plaintiff's Motions to Compel, she has again
2 committed inappropriate conduct in relationship to the other parties in this case in a fashion that will
3 not be tolerated by this Court. In the letters that she faxed to counsel in connection with her Motion
4 to Compel Documents from A-1, she repeatedly referred to counsel as a "liar," having committed a
5 "bad faith lie," and having "conspired" against her. According to defense counsel, in connection
6 with the matters raised by this Motion, she used foul language when she telephone defense counsel's
7 staff. She also sent faxes in which she accused counsel for the Housing Authority of "abuse" and
8 "attorney misconduct."

9 The Court notes that the district judge has already imposed restrictions in this case as a result
10 of Plaintiff's misbehavior. The Court again cautions Plaintiff that abusive behavior will not be
11 tolerated.

12 **A. Plaintiff's First Motion to Compel**

13 Plaintiff's First Motion to Compel is DENIED. Plaintiff has identified no specific
14 inadequacies in any of the particular responses made by the San Francisco Housing Authority
15 ("Housing Authority") to Plaintiff's First Request for Production of Documents. In addition,
16 Plaintiff's assertion, that the Housing Authority's response to the First Request for Production of
17 Documents was one week late, and, therefore, that the Housing Authority waived all of its
18 privileges, is without merit for two reasons. First, the Court finds good cause for the failure by the
19 Housing Authority to serve timely its response to the First Request for Production of Documents.
20 Plaintiff inadvertently stapled her First Request for Production of Documents to the back of a
21 request for production of documents that was addressed to another defendant. Accordingly, the
22 Court finds no waiver. In any event, Plaintiff was certainly not prejudiced by this delay: Defendants
23 have represented that they did not withhold *any* documents, even though they did object to each of
24 the paragraphs of the First Request for Production of Documents. Plaintiff has not identified any
25 documents or categories of documents that she believes were withheld.

26 **B. Plaintiff's Second Motion to Compel**

27 Plaintiff's Second Motion to Compel is DENIED. Again, Plaintiff identifies no specific
28 issues with respect to any of the specific paragraphs of her Second Request for Production of

1 Documents to the Housing Authority. Defendant timely responded to the Second Request for
2 Production of Documents. Plaintiff argues that Defendant did not produce a privilege log.
3 However, a privilege log was produced – with respect to two (2) documents – along with the
4 opposition to this Motion. The Court finds no waiver of the attorney-client privilege or the work
5 product doctrine simply because the privilege log was served in response to the opposition in
6 response to the motion. The Court finds the assertion of the privilege with respect to the two
7 documents logged appropriate, and finds the delay in the production of this privilege log did not
8 prejudice Plaintiff. Finally, Plaintiff has not demonstrated that Defendant has failed to produce any
9 documents, despite her rhetoric to the contrary.

10 **C. Plaintiff's Third Motion to Compel**

11 Plaintiff's Third Motion to Compel is DENIED. Once again, Plaintiff does not raise any
12 complaints about any of the specific objections raised in Defendant Paula Jones dba A-1 Security's
13 ("A-1") response to Plaintiff's Request for Production, Set One. Indeed, Plaintiff does not identify
14 any specific documents or categories of documents that were withheld. Plaintiff's sole argument is
15 that Defendant A-1 made a mistake in the service of its Response, and, therefore, waived all
16 objections. Plaintiff has not demonstrated that any documents would have to be produced even if
17 this were true. In any event, the Court declines to find a waiver under the circumstances of this case.
18 According to defense counsel, his clerical staff made a mistake in serving A-1's Response to
19 Plaintiff's Request for Production, Set One – inadvertently serving it on co-defendant's counsel and
20 indicating on the proof of service that co-defendant's counsel represented Plaintiff. That service was
21 timely made. Immediately upon discovering the error, defense counsel provided a copy of the
22 Response to Plaintiff. Plaintiff was not prejudiced by this error.

23 Accordingly, Plaintiff's Motions to Compel are DENIED.

24 IT IS SO ORDERED.

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26 Dated: March 19, 2007

27 
JOSEPH C. SPERO
28 United States Magistrate Judge